

REMARKS

The Decision on Appeal of August 30, 2006, has been received and reviewed.

Claims 1-22 were previously pending and under consideration in the above-referenced application. Each of claims 1, 2, 6-9, and 19-22 stands rejected, while claims 3-5 and 10-18 are drawn to allowable subject matter.

Claim 3 has been canceled without prejudice or disclaimer.

New claims 23-36 have been added.

Reconsideration of the above-referenced application is respectfully requested.

Rejections under 35 U.S.C. § 102

Claims 1, 2, 6, 7, and 19-22 stand rejected under 35 U.S.C. § 102(e) for reciting subject matter that is allegedly anticipated by the subject matter described in U.S. Patent 6,461,932 to Wang.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single reference which qualifies as prior art under 35 U.S.C. § 102. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

The subject matter of claim 3 that was indicated to be allowable over the disclosure of Wang has been incorporated into independent claim 1. Therefore, under 35 U.S.C. § 102(e), the subject matter recited in amended independent claim 1 is allowable over the subject matter described in Wang.

Claims 2, 6, 7, and 19-22 are each allowable, among other reasons, for depending directly or indirectly from amended independent claim 1, which is allowable.

Claim 2 is additionally allowable since Wang does not expressly or inherently describe “applying a stress buffer material.” Wang describes covering a dielectric layer with a smoothening layer. *Wang*, col. 3, lines 13-15. Wang does not describe that the smoothening layer is a “stress buffer material.” The plain meaning of “smoothening layer” does not encompass stress buffer materials.

Furthermore, Wang clearly indicates which layers have stress buffer properties, and thus could be composed of stress buffer materials. Wang describe a pad oxide layer that “relieves stress.” *Wang*, col. 4, lines 64-67. Thus, indicating that the pad oxide layer serves as a stress buffer. Wang does not describe that the smoothening layer relieves stress. If the smoothening layer of Wang had stress buffering properties it would have been described as such. Thus, the smoothening layer of Wang does not describe a “stress buffer material.”

Claims 19-22 are each allowable, among other reasons, for depending directly or indirectly from dependent claim 2, which is allowable.

Claim 22 is additionally allowable since Wang does not expressly or inherently describe “substantially concurrently etching the first material layer and the stress buffer material . . . so as to expose the surface of the semiconductor device structure.” Wang does not describe “etching,” but only describes the use of chemical-mechanical polishing (CMP). *Wang*, col. 3, lines 39-41.

Withdrawal of the 35 U.S.C. § 102(e) rejections of claims 1, 2, 6, 7, and 19-22 is respectfully solicited, as is the allowance of each of these claims.

Allowable Subject Matter / New Claims

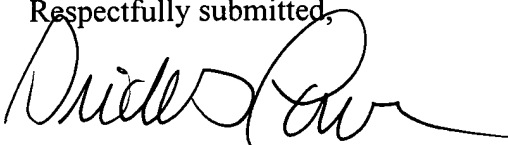
The indications that claims 3-5 and 10-18 recite allowable subject matter is noted with appreciation. As noted, subject matter from claim 3 has been incorporated into independent claim 1.

The subject matter of claim 10 appears in new independent claim 23. It is respectfully submitted that neither new independent claim 23, nor any of the claims that depend therefrom, introduce new matter into the above-referenced application.

CONCLUSION

It is respectfully submitted that each of claims 1, 2, and 4-36 is allowable. An early notice of the allowability of each of these claims is respectfully solicited, as is an indication that the above-referenced application has been passed for issuance. If any issues preventing allowance of the above-referenced application remain which might be resolved by way of a telephone conference, the Office is kindly invited to contact the undersigned attorney.

Respectfully submitted,



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